

**TO:** ATTACHED DISTRIBUTION LIST

**FROM:** JOHN R. AXE  
CLARK HILL PLC

**RE:** TECHNICAL AMENDMENTS TO PUBLIC ACT 206 OF THE PUBLIC ACTS  
OF 1893 WHICH RELATE TO THE ISSUANCE OF DELINQUENT TAX  
REVENUE NOTES

**DATE:** FEBRUARY 10, 2017

---

### BACKGROUND

Public Act 82 and 83 of the Public Acts of Michigan of 2016 (which were signed into law with on April 12, 2016) permitted Wayne County to borrow in June of 2016 and save millions of dollars over its borrowing costs a year earlier.

As often occurs with complicated legislation (and this was very complicated) several technical amendments are necessary.

The problems which need to be solved are as follows:

### PROBLEM NUMBER ONE

Public Act 82 requires that each year if a County determines to continue the delinquent tax revolving fund (the "DTRF") that such fund must be re-authorized separately each year.

This was not a requirement before April of 2016 and many counties have not taken specific action to re-create the DTRF. In the past most counties simply continued the DTRF as an "umbrella fund" and provided (for accounting purposes) to set up a separate account on the county's books for each tax year's delinquent taxes.

Unless a county is actually issuing revenue notes under Public Act 83 there is no reason to require a new fund to be established annually.

**PROBLEM NUMBER TWO**

In order to satisfy the attorney who would be giving the bankruptcy opinion for revenue notes, Public Act 82 included an amendment in Section 87f which included the following language: "this section supersedes sections 87b and 87c". This language could be construed to remove all of the powers granted to a county treasurer under Sections 87b and 87c of Act 206.

To the extent that there were differences in the actual terms which related to the new revenue notes (which are issued pursuant to section 87f under a different statute) that is not a problem.

However, there are many other specific powers granted to county treasurers which have nothing to do with the terms for the new revenue notes but which are important for the functioning of the county treasurer's office.

In order to make certain that these provisions were not inadvertently removed, corrective legislation needs to be approved.

**CORRECTIVE LEGISLATION****AMENDMENT TO SECTIONS 87b AND 87f OF ACT 206**

We have prepared a single bill with two amendments. One is an amendment to section 87b and the other amends section 87f.

This technical amendment is attached hereto.

This legislation was introduced as Senate Bill 42 on January 18, 2017, in the Michigan Senate by Senator Brandenburg. On February 1, 2017 an identical bill was introduced in the House of Representatives by Representative Tedder, a copy of which is attached hereto.

It is our understanding that HB 4136 will be discussed at the House Tax Policy Committee meeting on Wednesday February 15, 2017 at 10:30 am.

If you have any questions regarding this legislation please feel free to contact me at 313.309.9452 or [jaxe@clarkhill.com](mailto:jaxe@clarkhill.com).